

AMENDED IN ASSEMBLY JUNE 23, 2003

AMENDED IN ASSEMBLY MAY 28, 2003

AMENDED IN SENATE APRIL 8, 2003

SENATE BILL

No. 1024

**Introduced by Committee on Elections and Reapportionment
(Senators Perata (Chair), Escutia, and Murray)**

February 21, 2003

An act to amend Section 5091 of the Education Code, to amend Sections 3103, 3304, 3500, 4101, 7227, 7422, 7672, 7772, 10220, 10411, 11020, 13113, and 14242 of, and to repeal and add Section 7770 of, the Elections Code, to amend Section 26802 of the Government Code, and to amend Section 9358 of the Public Resources Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

SB 1024, as amended, Committee on Elections and Reapportionment. Elections: omnibus provisions.

(1) Existing law requires an election for the purpose of filling a vacancy in the governing board of a school district to be held not less than 130 days after the occurrence of the vacancy or after a resignation is filed with the county superintendent of schools.

This bill would impose a state-mandated local program as it would, instead, require the election to be held not less than 130 days after the order of the election.

(2) Existing law provides that a new citizen is eligible to register and vote at the office of the county elections official at anytime beginning on the 28th day before an election and ending on the 7th day prior to the election.

This bill would modify that time period to begin on the 14th day before an election, thereby imposing a state-mandated local program.

(3) Existing law requires the proponents of a recall of an elected officer to submit a notice of intention, which is required to contain the printed name, signature, and business or residence address of each of the proponents, among other requirements.

This bill would modify that provision in that it would require the proponents to submit their residence addresses or, for each proponent who cannot receive mail at his or her mailing address, an alternative mailing address.

(4) Existing law provides that a person offering to vote may be orally challenged by a member of the precinct board if the voter is not a resident of the precinct, unless the voter is registered in another precinct and he or she is moving from that precinct within 28 days prior to an election.

This bill would modify those provisions in that it would exempt a voter registered in another precinct who is moving from that precinct within 14 days prior to an election.

(5) Existing law requires the Secretary of State to compute the number of members of central committees of the Peace and Freedom Party to be elected and certify the number to elections officials and the Chairperson of the Peace and Freedom Party State Central Committee.

This bill would eliminate these duties of the Secretary of State and would, instead, require that the state party chairperson, within a prescribed period, advise the Secretary of State whether the party will hold a central committee election. If an election is not held, a county central committee would be convened pursuant to the party's rules.

(6) Existing law requires a candidate for an elective city office to be nominated by means of a nomination paper signed by a specified number of voters, and permits any person registered to vote at the election to circulate the nomination paper.

This bill would, in addition, require the circulator of the nomination paper to be qualified to vote for the elective office of the city for which the nomination is made, and would require that only one person circulate each nomination paper, thereby creating a state-mandated local program.

~~(5)~~

(7) Existing law requires a nomination for the office of director of a resource conservation district to be filed with the clerk of the board of supervisors of the principal county.



This bill, instead, would require the nomination to be filed with the county elections official.

~~(6)~~

(8) Existing law requires that county elections officials register electors who apply as voters.

This bill, instead, would require that county clerks register voters.

~~(7)~~

(9) This bill also makes technical, nonsubstantive changes to existing law, and corrects several erroneous cross-references to existing law.

~~(8)~~

(10) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5091 of the Education Code is amended
2 to read:

3 5091. (a) Whenever a vacancy occurs, or whenever a
4 resignation has been filed with the county superintendent of
5 schools containing a deferred effective date, the school district or
6 community college district governing board shall, within 60 days
7 of the vacancy or the filing of the deferred resignation, either order
8 an election or make a provisional appointment to fill the vacancy.
9 A governing board member may not defer the effective date of his
10 or her resignation for more than 60 days after he or she files the
11 resignation with the county superintendent of schools.

12 In the event that a governing board fails to make a provisional
13 appointment or order an election within the prescribed 60-day



1 period as required by this section, the county superintendent of
2 schools shall order an election to fill the vacancy.

3 (b) When an election is ordered, it shall be held on the next
4 established election date provided pursuant to Chapter 1
5 (commencing with Section 1000) of Division 1 of the Elections
6 Code not less than 130 days after the order of the election.

7 (c) (1) If a provisional appointment is made within the 60-day
8 period, the registered voters of the district may, within 30 days
9 from the date of the appointment, petition for the conduct of a
10 special election to fill the vacancy. A petition shall be deemed to
11 bear a sufficient number of signatures if signed by at least the
12 number of registered voters of the district equal to $1\frac{1}{2}$ percent of
13 the number of registered voters of the district at the time of the last
14 regular election for governing board members, or 25 registered
15 voters, whichever is greater. However, in districts with registered
16 voters of less than 2,000 persons, a petition shall be deemed to bear
17 a sufficient number of signatures if signed by at least 5 percent of
18 the number of registered voters of the district at the time of the last
19 regular election for governing board members.

20 (2) The petition shall be submitted to the county superintendent
21 of schools having jurisdiction who shall have 30 days to verify the
22 signatures. If the petition is determined to be legally sufficient by
23 the county superintendent of schools, the provisional appointment
24 is terminated, and the county superintendent of schools shall order
25 a special election to be conducted no later than the 130th day after
26 the determination. However, if an established election date, as
27 defined in Section 1000 of the Elections Code, occurs between the
28 130th day and the 150th day following the order of the election,
29 the county superintendent of schools may order the special
30 election to be conducted on the regular election date.

31 (d) A provisional appointment made pursuant to subdivision
32 (a) confers all powers and duties of a governing board member
33 upon the appointee immediately following his or her appointment.

34 (e) A person appointed to fill a vacancy shall hold office only
35 until the next regularly scheduled election for district governing
36 board members, whereupon an election shall be held to fill the
37 vacancy for the remainder of the unexpired term. A person elected
38 at an election to fill the vacancy shall hold office for the remainder
39 of the term in which the vacancy occurs or will occur.

(f) (1) Whenever a petition calling for a special election is circulated, the petition shall meet all of the following requirements:

(A) The petition shall contain the estimate of the elections official of the cost of conducting the special election.

(B) The name and residence address of at least one, but not more than five, of the proponents of the petition shall appear on the petition, each of which proponents shall be a registered voter of the school district or community college district, as applicable.

(C) None of the text or other language of the petition shall appear in less than six-point type.

(D) The petition shall be prepared and circulated in conformity with Sections 100 and 104 of the Elections Code.

(2) If any of the requirements of this subdivision are not met as to any petition calling for a special election, the county superintendent of schools shall not verify the signatures, nor shall any further action be taken with respect to the petition.

(3) No person shall permit the list of names on petitions prescribed by this section to be used for any purpose other than qualification of the petition for the purpose of holding an election pursuant to this section.

(4) The petition filed with the county superintendent of schools shall be subject to the restrictions in Section 6253.5 of the Government Code.

(g) Elections held pursuant to subdivisions (b) and (c) shall be conducted in as nearly the same manner as practicable as other governing board member elections.

SEC. 2. Section 3103 of the Elections Code is amended to read:

3103. (a) Notwithstanding any other provision of the law, a special absentee voter who qualifies pursuant to this section may apply for a special absentee voter ballot. Any application made pursuant to this section that is received by the elections official prior to the 60th day before the election shall be kept and processed on or after the 60th day before the election.

(b) If a special absentee voter submits an application containing a statement that provides that due to military or other contingencies that preclude normal mail delivery, as specified by the voter, the voter cannot vote an absentee ballot during the normal absentee voting period, and the voter is otherwise qualified

1 to vote as a special absentee voter, the elections official shall
2 immediately send the voter a ballot in a form prescribed and
3 provided by the Secretary of State, or a ballot and voter registration
4 card if required by Section 3100. The elections official shall send
5 with the ballot a list of all candidates who have qualified for the
6 ballot by the 60th day before the election and a list of all measures
7 that are to be submitted to the voters and on which the voter is
8 qualified to vote. The voter shall be entitled to write in the name
9 of any specific candidate seeking nomination or election to any
10 office listed on the ballot.

11 (c) Notwithstanding Section 15341 or any other provision of
12 law, any name written upon a ballot for a particular office pursuant
13 to subdivision (b) shall be counted for the office or nomination.

14 (d) The elections official shall receive and canvass special
15 absentee voter ballots described in this section under the same
16 procedure as absent voter ballots, insofar as that procedure is not
17 inconsistent with this section, except that prior to election day,
18 special absentee voter ballots shall be secured separately in a
19 sealed ballot box reserved for that purpose.

20 (e) In the event that a voter executes a special absentee ballot
21 pursuant to this section and the military or other contingency does
22 not exist during the normal absentee voting period, that voter may
23 make an application for an absentee ballot pursuant to Sections
24 3100 and 3101. If an application is made pursuant to this
25 subdivision, the elections official shall reject the voted ballot
26 previously cast and process the application in accordance with
27 Chapter 1 (commencing with Section 3000).

28 (f) Notwithstanding any other provision of law, a special
29 absentee voter who qualifies pursuant to this section may, by
30 facsimile transmission, register to vote and apply for an absent
31 voter's ballot. Upon request, the elections official shall send to the
32 qualified special absentee voter either by mail or facsimile
33 transmission the special absentee ballot or, if available, an absent's
34 voter ballot pursuant to Chapter 1 (commencing with Section
35 3000).

36 SEC. 3. Section 3304 of the Elections Code is amended to
37 read:

38 3304. (a) A voter described in Section 3302 may apply for an
39 absent voter ballot. Any application made pursuant to this section
40 that is received by the elections official prior to the 60th day before

1 the election shall be kept and processed on or after the 60th day
2 before the election.

3 (b) If the voter submits an application containing a statement
4 that provides that due to contingencies that preclude normal mail
5 delivery, as specified by the voter, the voter cannot vote an
6 absentee ballot during the normal absentee voting period, and the
7 voter is otherwise qualified to vote as provided in this chapter, the
8 elections official shall immediately send the voter a ballot in a
9 form prescribed and provided by the Secretary of State, or a ballot
10 and voter registration card if required by Section 3307. The
11 elections official shall send with the ballot a list of all candidates
12 who have qualified for the ballot by the 60th day before the
13 election and for whom the voter is qualified to vote. The voter shall
14 be entitled to write in the name of any specific candidate seeking
15 the nomination or election to any office listed on the ballot.

16 (c) Notwithstanding Section 15341 or any other provision of
17 law, any name written upon a ballot for a particular office pursuant
18 to subdivision (b) shall be counted for the office or nomination.

19 (d) The elections official shall receive and canvass the absent
20 voter ballots described in this section under the same procedure as
21 other absent voter ballots, insofar as that procedure is not
22 inconsistent with this section, except that prior to election day, the
23 absent voter ballots described in this section shall be secured
24 separately in a sealed ballot box reserved for that purpose.

25 SEC. 4. Section 3500 of the Elections Code is amended to
26 read:

27 3500. Any new citizen is eligible to register and vote at the
28 office of the county elections official at any time beginning on the
29 14th day before an election and ending on the seventh day prior to
30 election day.

31 SEC. 5. Section 4101 of the Elections Code is amended to
32 read:

33 4101. Notwithstanding Sections 12111, 13300, and 13303,
34 the elections official shall not commence to mail the combined
35 sample ballot and mail ballot prior to the 29th day before the
36 election and shall complete the mailing by the 10th day before the
37 election.

38 SEC. 6. Section 7227 of the Elections Code is amended to
39 read:

1 7227. In each county the name of each candidate for member
2 of a committee shall appear upon the ballot only upon the filing of
3 a nomination paper pursuant to Article 2 (commencing with
4 Section 8020) to Article 6 (commencing with Section 8100),
5 inclusive, of Chapter 1 of Part 1 of Division 8, signed in his or her
6 behalf by the voters of the Assembly or supervisorial district in
7 which he or she is a candidate.

8 SEC. 7. Section 7422 of the Elections Code is amended to
9 read:

10 7422. In each county the name of each candidate for member
11 of a committee shall appear upon the ballot only upon the filing of
12 a nomination paper pursuant to Article 2 (commencing with
13 Section 8020) to Article 6 (commencing with Section 8100),
14 inclusive, of Chapter 1 of Part 1 of Division 8, signed on his or her
15 behalf by the voters of the Assembly or supervisorial district in
16 which he or she is a candidate.

17 SEC. 8. Section 7672 of the Elections Code is amended to
18 read:

19 7672. In each county the name of each candidate for member
20 of a committee shall appear upon the ballot only upon the filing of
21 a nomination paper pursuant to Article 2 (commencing with
22 Section 8020) to Article 6 (commencing with Section 8100),
23 inclusive, of Chapter 1 of Part 1 of Division 8, signed on his or her
24 behalf by the voters of the Assembly or supervisorial district in
25 which he or she is a candidate.

26 SEC. 9. Section 7770 of the Elections Code is repealed.

27 SEC. 10. Section 7770 is added to the Elections Code, to read:

28 7770. The state party chairperson, no later than the 135th day
29 before the direct primary election, shall notify the Secretary of
30 State whether or not a county central committee election will be
31 held. In the event that a county central committee election is not
32 held, a county central committee will be convened pursuant to
33 rules adopted by the party.

34 SEC. 11. Section 7772 of the Elections Code is amended to
35 read:

36 7772. In each county, the name of each candidate for member
37 of central committees shall appear on the ballot only if she or he
38 has done either of the following:

39 (a) Filed a nomination paper pursuant to Article 2
40 (commencing with Section 8020) to Article 6 (commencing with

1 Section 8100), inclusive, of Chapter 1 of Part 1 of Division 8,
2 signed in the candidate's behalf by the voters of the central
3 committee election district in which she or he is a candidate.

4 (b) Qualified to have her or his name printed on the direct
5 primary ballot as a candidate for the Peace and Freedom Party
6 nomination to a partisan public office.

7 SEC. 12. *Section 10220 of the Elections Code is amended to*
8 *read:*

9 10220. Candidates may be nominated for any of the elective
10 offices of the city in the following manner:

11 Not earlier than the 113th day nor later than the 88th day before
12 a municipal election during normal office hours, as posted, the
13 voters may nominate candidates for election by signing a
14 nomination paper. Each candidate shall be proposed by not less
15 than 20 nor more than 30 voters in a city of 1,000 registered voters
16 or more, and not less than five nor more than 10 voters in a city of
17 less than 1,000 registered voters, but only one candidate may be
18 named in any one nomination paper. No voter may sign more than
19 one nomination paper for the same office, and in the event the voter
20 does so, that voter's signature shall count only on the first
21 nomination paper filed which contains the voter's signature.
22 Nomination papers subsequently filed and containing that voter's
23 signature shall be considered as though that signature does not
24 appear thereon. Each seat on the governing body is a separate
25 office. Any person registered to vote at the election, *and qualified*
26 *to vote for the elective office of the city for which the nomination*
27 *is made*, may circulate a nomination paper. *Only one person may*
28 *circulate each nomination paper.* Where there are full terms and
29 short terms to be filled, the term shall be specified in the
30 nomination paper.

31 SEC. 13. *Section 10411 of the Elections Code is amended to*
32 *read:*

33 10411. In case of the consolidation of any election called by
34 the legislative body of a city, district, or other political subdivision
35 with an election held in the county or counties in which the city,
36 district, or other political subdivision is situated, the governing
37 body of the city, district, or other political subdivision may
38 authorize the board of supervisors to canvass the returns of the
39 election. If this authority is given:

1 (a) The election shall be held in all respects as if there were only
2 one election.

3 (b) Only one form of ballot shall be used.

4 (c) The returns of the election need not be canvassed by the
5 legislative body of the authorizing city, district, or other political
6 subdivision.

7 If the authority is given to the board of supervisors, the canvass
8 shall be made in accordance with Article 1 (commencing with
9 Section 15300) of Chapter 4 of Division 15.

10 ~~SEC. 13.~~

11 *SEC. 14.* Section 11020 of the Elections Code is amended to
12 read:

13 11020. The notice of intention shall contain all of the
14 following:

15 (a) The name and title of the officer sought to be recalled.

16 (b) A statement, not exceeding 200 words in length, of the
17 reasons for the proposed recall.

18 (c) The printed name, signature, and residence address of each
19 of the proponents of the recall. If a proponent cannot receive mail
20 at the residence address, he or she must provide an alternative
21 mailing address. The minimum number of proponents is 10, or
22 equal to the number of signatures required to have been filed on
23 the nomination paper of the officer sought to be recalled,
24 whichever is higher.

25 (d) The provisions of Section 11023.

26 ~~SEC. 14.~~

27 *SEC. 15.* Section 13113 of the Elections Code is amended to
28 read:

29 13113. (a) In the case of an election of candidates in a special
30 district, school district, charter city (whose charter does not
31 provide to the contrary), or other local government body,
32 occurring on other than one of the election dates specified in
33 subdivision (b) of Section 13112, the official responsible for
34 conducting the election shall, at the same time that the election is
35 called, notify the Secretary of State by registered mail of the date
36 of the election, the date of the close of filing, and the last possible
37 date for filing in the event there is an extension of filing due to an
38 incumbent failing to file. The Secretary of State shall conduct a
39 randomized alphabet drawing on the first weekday following the

1 last possible day of filing for the election according to subdivision
2 (a) of Section 13112.

3 (b) If two or more drawings for local government elections
4 would occur on the same date, the Secretary of State may use a
5 single randomized alphabet drawing for all of these elections. The
6 Secretary of State shall communicate the results of the drawing by
7 registered mail to each respective official responsible for
8 conducting the election who shall use it to determine the order on
9 the ballot of all candidates' names.

10 (c) All drawings held pursuant to this section shall be open to
11 the public.

12 ~~SEC. 15.—~~

13 *SEC. 16.* Section 14242 of the Elections Code is amended to
14 read:

15 14242. The ground for challenge set forth in paragraph (2) of
16 subdivision (a) of Section 14240 shall not apply to any person duly
17 registered as a voter in any precinct in California and moving from
18 that precinct within 14 days prior to an election.

19 ~~SEC. 16.—~~

20 *SEC. 17.* Section 26802 of the Government Code is amended
21 to read:

22 26802. Except as provided by law, the county clerk shall
23 register as voters any electors who apply for registration and shall
24 perform any other duties required of him or her by the Elections
25 Code. In those counties in which a registrar of voters office has
26 been established, the registrar of voters shall discharge all duties
27 vested by law in the county clerk that relate to and are a part of
28 election procedure.

29 ~~SEC. 17.—~~

30 *SEC. 18.* Section 9358 of the Public Resources Code is
31 amended to read:

32 9358. Nomination of candidates shall be in writing and signed
33 by at least five landowners of the district. Nominations shall be
34 filed with the county elections official of the principal county.

35 ~~SEC. 18.—~~

36 *SEC. 19.* Notwithstanding Section 17610 of the Government
37 Code, if the Commission on State Mandates determines that this
38 act contains costs mandated by the state, reimbursement to local
39 agencies and school districts for those costs shall be made pursuant
40 to Part 7 (commencing with Section 17500) of Division 4 of Title

1 2 of the Government Code. If the statewide cost of the claim for
2 reimbursement does not exceed one million dollars (\$1,000,000),
3 reimbursement shall be made from the State Mandates Claims
4 Fund.

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